

### Remarks

The Final Office Action dated March 23, 2004 has been received and considered by the Applicants. The Applicants do not believe that entry of the foregoing response will result in the introduction of new matter in to the present application for invention, therefore, it is respectfully requested that the foregoing amendment be entered. Claims 1-16 are currently pending in the present application for invention. Claims 1-16 stand rejected by the March 23, 2004 Final Office Action.

The Drawings are objected to because Fig. 3 lacks descriptive labels. A redlined correction of Fig 3, having descriptive labels has been included with this response.

The Examiner suggests specification. The Applicants, respectfully, decline because 37 CFR 1.77(b) does not require that the various sections of the specification to a utility application have a section heading.

The Examiner made the March 23, 2004 Office Action. The Applicant hereby asserts the finality of the March 23, 2004 Office Action is premature. The MPFP §706.07 details when a Final Rejection is proper on second action.

"Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c)."

The previous amendment submitted December 23, 2003 by the Applicant did not amend Claims 4-7. The previous office action dated August 26, 2003 rejected Claims 4-7 under the provisions of 35 U.S.C. §102(b) as being anticipated by U. S. Patent No. 6,069,870 issued in the name of Maeda et al. (Maeda et al.) In making this rejection the Examiner states that Maeda et al. discloses the claimed invention at column 6, lines 56-62; column 7, lines 10-13 of that reference. The March 23, 2004 Office Action rejects Claims 4-7 under the provisions as being anticipated by U. S. Patent No. 6,069,870 issued in the name of Maeda et al. (Maeda et al.). The Examiner states that Maeda et al. discloses the elements of the rejected claims at column 6, lines 56-62; column 7, lines 22 to column 8, line 35 of that reference. The Applicants respectfully assert that the March 23, 2004 Office Action using column 7, lines 22 to column 8, line

35 in place of column 7, lines 10-13 of Maeda et al. constitutes a new rejection that was not necessitated by Applicant's December 23, 2003 amendment. Therefore the only rejection to Claims 4-7 is a new rejection that was not necessitated by Applicant's amendment of the claims. Claims 4-7 18 after the December 23, 2003 amendment contains exactly the same limitations that were formerly contained within Claim 4-7 prior the December 23, 2003. The Applicants respectfully submit that they have been denied an opportunity to respond to this "new rejection" because it was not applied in the previous, non-final office action. Accordingly, at least pertaining to Claim 4-7, the holding of finality is premature.

The Final Office Action rejects claims 4-6 and 14-16 under the provisions of 35 U.S.C. §102(b) as being anticipated by U. S. Patent No. 6,069,870 issued in the name of Maeda et al. (Maeda et al.). The Examiner states that Maeda et al. disclose the elements of the rejected claims. In making this rejection the Examiner states that Maeda et al. disclose that the phase of the second variation are coupled to the phase of the first variations at: column 6, lines 56-62; column 7, lines 22 to column 8, line 35; and Figures 3 and 27 of that reference. The Applicants do not concur. Maeda et al. do not disclose, suggest, that the phase of the second variations is coupled to the phase of the first variations.

Column 6, lines 56-62, Maeda et al. disclose information marks along track 270 and a track wobble along the borders of track 270 for addressing information 13. The Final Office Action does not specify which is considered to be the first variations and which is considered to be the second variations. In the previous non-final office action, column 6, lines 56-62, Maeda et al. was used to read on the recited elements of the rejected claims for first variations caused by existence and nonexistence of the information marks along the track, the first variations representing an information signal recorded on said record carrier, and second variations caused by variations associated with the information marks. Therefore, in the previous non-final office action it appeared that the Examiner was referring to the information marks and the wobble groove as, respectively, reading on the first and second variations. Presently, in the Final Office Action the Examiner is reading column 7, line 22 to column 8, line 35 on the second variations and it is not clear what the Examiner is reading on the second variations that are recited by the rejected claims. Therefore, the Applicants proceed assuming that the first variations are the information marks and the second variations are wobble groove.

The Final Office Actions states that column 7, line 22 to column 8, line 35 of Maeda et al. disclose the phase of the second variations being coupled to the phase of the first variations. The Applicants would like to draw the Examiner's attention to column 7, lines 33-47 of Maeda et al. which disclose that the borders of tracks 270 are partitioned and each of the partitions denotes a "0" or a "1". Meanwhile, the number of bits in each block is fixed. The number of periods within the wobbling waveforms has a predetermined number of waves for each bit area. Maeda et al. clearly disclose that the phase of the borders 14, 15 of track 270 have an orthogonal phase relationship to each other, but the phase of the information marks (first variations) are not coupled to the phase of the wobbling groove, and the phase of the information marks is coupled to the phase of borders 14, 15.

The rejection to claim 5 states that column 7, line 22 to column 8, line 34 of Maeda et al. disclose that the second variations have either a first or second phase with respect to the first variations. The Applicants would like to respectfully point out that column 7, line 22 to column 8, line 34 of Maeda et al. discuss the phase relationship of the walls 14, 15 of the wobbling groove to each other. The first variations are specifically recited as being "first variations caused by existence and nonexistence of the information marks along the track" which are the information marks not the wobbling groove and not either of borders 14, 15. Column 7, line 22 to column 8, line 34 of Maeda et al. disclose that the phase of the wobbling waveforms are viewed with respect to each other. Column 7, line 22 to column 8, line 34 of Maeda et al. do not disclose, or suggest, second variations having a first or a second phase with respect to the first variations as recited by rejected claim 5. The Applicants respectfully assert that Maeda et al. does not anticipate second variations having a first or a second phase with respect to the first variations as recited by rejected claim 5 to the present invention. Accordingly, this rejection is, respectfully, traversed.

The rejection to claim 6 states that column 7, line 22 to column 8, line 34 of Maeda et al. disclose that the borders 14, 15 of the wobbling groove are 180° out of phase with each other to indicate a "0" or a "1". Maeda et al. do not disclose that the first and second phases of the second variations have a first or second phase relationship with respect to the first variations.

The rejection to claim 14 states that column 7, line 22 to column 8, line 34 of Maeda et al. disclose that the predetermined variation pattern allows sampling of the second variations at twice the frequency of the second variations. The Applicants, unequivocally, deny

this assertion contained in the Final Office Action. There is no disclosure, suggestion, or mentioning in any way, manner or form of the subject matter defined by rejected claim 14 within Maeda et al.

The rejection to claim 15 states that column 7, line 22 to column 8, line 34 of Maeda et al. disclose that the "second variation have a first and a second phase such that a predetermined relationship between said first and said second phase coincides to a start of frame." The Applicants, respectfully, submit that this rejection is without merit. There is no disclosure, suggestion, or mentioning in any way, manner or form of the coincidence of the first and second phase to indicate a start of frame within Maeda et al.

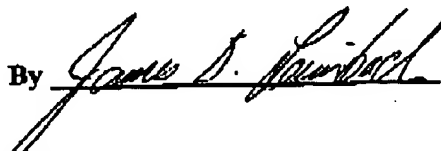
The rejection to claim 16 states that column 7, line 22 to column 8, line 34 of Maeda et al. disclose that the coincidence of the first and second phase to indicate a start of frame is a zero crossing. There is no disclosure, suggestion, or mentioning in any way, manner or form of the coincidence of the first and second phase being a zero crossing to indicate a start of frame within Maeda et al.

The Final Office Action rejects claims 1-3, 7 and 8-13 under the provisions of 35 U.S.C. §103(a) as being obvious over U. S. Patent No. 5,930,210 issued in the name of Timmermans et al. (hereinafter referred to as Timmermans et al.) in view of Maeda et al. The Examiner states that Timmermans et al. discloses the claimed invention except for the phase of the second variations being coupled to the phase of the first variations. The Examiner further states that Maeda et al. teaches coupling the phase of the second variations to the phase of the first variations. The Applicants, respectfully, disagree with this assertion contained in the Final Office Action. As previously discussed in the response to the rejection of claims 4-7 and 14-16 as being anticipated by Maeda et al., Maeda et al. do not disclose that the phase of the walls 14, 15 defining the wobbling groove are coupled to the phase of the variations caused by the information marks. Simply stated, Maeda et al. do not teach that the phase of the second variations is coupled to the phase of the first variations. Accordingly, this rejection is respectfully traversed.

In view of the foregoing remarks, the Applicants believe that the present application is in condition for allowance, with such allowance being, respectfully, requested.

Respectfully submitted,

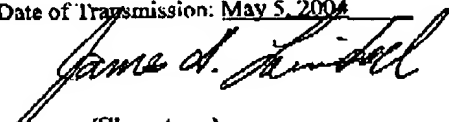
By

  
James D. Leimbach, Reg. 34,374

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